

(Pub. L. 104–1, title IV, §416, Jan. 23, 1995, 109 Stat. 38.)

SUBCHAPTER V—MISCELLANEOUS PROVISIONS

§ 1431. Exercise of rulemaking powers

The provisions of sections 1302(b)(3) and 1384(c) of this title are enacted—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

(Pub. L. 104–1, title V, §501, Jan. 23, 1995, 109 Stat. 39.)

§ 1432. Political affiliation and place of residence

(a) In general

It shall not be a violation of any provision of section 1311 of this title to consider the—

- (1) party affiliation;
- (2) domicile; or
- (3) political compatibility with the employing office;

of an employee referred to in subsection (b) of this section with respect to employment decisions.

(b) “Employee” defined

For purposes of subsection (a) of this section, the term “employee” means—

- (1) an employee on the staff of the leadership of the House of Representatives or the leadership of the Senate;
- (2) an employee on the staff of a committee or subcommittee of—
 - (A) the House of Representatives;
 - (B) the Senate; or
 - (C) a joint committee of the Congress;
- (3) an employee on the staff of a Member of the House of Representatives or on the staff of a Senator;
- (4) an officer of the House of Representatives or the Senate or a congressional employee who is elected by the House of Representatives or Senate or is appointed by a Member of the House of Representatives or by a Senator (in addition an employee described in paragraph (1), (2), or (3)); or
- (5) an applicant for a position that is to be occupied by an individual described in any of paragraphs (1) through (4).

(Pub. L. 104–1, title V, §502, Jan. 23, 1995, 109 Stat. 39.)

(Pub. L. 104–1, title V, §502, Jan. 23, 1995, 109 Stat. 39.)

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§ 1433. Nondiscrimination rules of House and Senate

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Con-

duct of the House of Representatives retain full power, in accordance with the authority provided to them by the Senate and the House, with respect to the discipline of Members, officers, and employees for violating rules of the Senate and the House on nondiscrimination in employment.

(Pub. L. 104–1, title V, §503, Jan. 23, 1995, 109 Stat. 40.)

§ 1434. Judicial branch coverage study

The Judicial Conference of the United States shall prepare a report for submission by the Chief Justice of the United States to the Congress on the application to the judicial branch of the Federal Government of—

- (1) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);
- (2) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);
- (3) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);
- (4) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);
- (5) the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.);
- (6) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);
- (7) chapter 71 (relating to Federal service labor-management relations) of title 5;
- (8) the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.);
- (9) the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.);
- (10) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and
- (11) chapter 43 (relating to veterans’ employment and reemployment) of title 38.

The report shall be submitted to Congress not later than December 31, 1996, and shall include any recommendations the Judicial Conference may have for legislation to provide to employees of the judicial branch the rights, protections, and procedures under the listed laws, including administrative and judicial relief, that are comparable to those available to employees of the legislative branch under subchapters I through IV of this chapter.

(Pub. L. 104–1, title V, §505, Jan. 23, 1995, 109 Stat. 41.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in par. (1), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Civil Rights Act of 1964, referred to in par. (2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 252, as amended. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in par. (3), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Age Discrimination in Employment Act of 1967, referred to in par. (4), is Pub. L. 90-202, Dec. 15, 1967, 81 Stat. 602, as amended, which is classified generally to chapter 14 (§621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables.

The Family and Medical Leave Act of 1993, referred to in par. (5), is Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6, as amended, which enacted sections 60m and 60n of this title, sections 6381 to 6387 of Title 5, Government Organization and Employees, and chapter 28 (§2601 et seq.) of Title 29, Labor, amended section 2105 of Title 5, and enacted provisions set out as notes under section 2601 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

The Occupational Safety and Health Act of 1970, referred to in par. (6), is Pub. L. 91-596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§651 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Employee Polygraph Protection Act of 1988, referred to in par. (8), is Pub. L. 100-347, June 27, 1988, 102 Stat. 646, as amended, which is classified generally to chapter 22 (§2001 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 29 and Tables.

The Worker Adjustment and Retraining Notification Act, referred to in par. (9), is Pub. L. 100-379, Aug. 4, 1988, 102 Stat. 890, which is classified generally to chapter 23 (§2101 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in par. (10), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Subchapter II of this chapter, referred to in text, was in the original a reference to title II of this Act, meaning title II of Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 7, as amended, which enacted subchapter II of this chapter and amended section 6381 of Title 5, Government Organization and Employees, sections 203, 633a, 2611, and 2617 of Title 29, Labor, and sections 2000e-16 and 12209 of Title 42, The Public Health and Welfare. For complete classification of title II to the Code, see Tables.

§ 1435. Savings provisions

(a) Transition provisions for employees of House of Representatives and of Senate

(1) Claims arising before effective date

If, as of the date on which section 1311 of this title takes effect, an employee of the Senate or the House of Representatives has or could have requested counseling under section 305¹ of the Government Employees Rights Act of 1991 or Rule LI of the House of Representatives, including counseling for alleged violations of family and medical leave rights under title V of the Family and Medical Leave Act of 1993, the employee may complete, or initiate and complete, all procedures under the Government Employees Rights Act of 1991 and Rule LI, and the provisions of that Act and Rule shall remain in effect with respect to, and provide the exclusive procedures for, those claims until the completion of all such procedures.

(2) Claims arising between effective date and opening of Office

If a claim by an employee of the Senate or House of Representatives arises under section

1311 or 1312 of this title after the effective date of such sections, but before the opening of the Office for receipt of requests for counseling or mediation under sections 1402 and 1403 of this title, the provisions of the Government Employees Rights Act of 1991 and Rule LI of the House of Representatives relating to counseling and mediation shall remain in effect, and the employee may complete under that Act or Rule the requirements for counseling and mediation under sections 1402 and 1403 of this title. If, after counseling and mediation is completed, the Office has not yet opened for the filing of a timely complaint under section 1405 of this title, the employee may elect—

(A) to file a complaint under section 307 of the Government Employees Rights Act of 1991¹ or Rule LI of the House of Representatives, and thereafter proceed exclusively under that Act or Rule, the provisions of which shall remain in effect until the completion of all proceedings in relation to the complaint, or

(B) to commence a civil action under section 1408 of this title.

(3) Section 1207a of this title

With respect to payments of awards and settlements relating to Senate employees under paragraph (1) of this subsection, section 1207a¹ of this title remains in effect.

(b) Transition provisions for employees of Architect of Capitol

(1) Claims arising before effective date

If, as of the date on which section 1311 of this title takes effect, an employee of the Architect of the Capitol has or could have filed a charge or complaint regarding an alleged violation of section 1831(e)(2)¹ of this title, the employee may complete, or initiate and complete, all procedures under section 1831(e)¹ of this title, the provisions of which shall remain in effect with respect to, and provide the exclusive procedures for, that claim until the completion of all such procedures.

(2) Claims arising between effective date and opening of Office

If a claim by an employee of the Architect of the Capitol arises under section 1311 or 1312 of this title after the effective date of those provisions, but before the opening of the Office for receipt of requests for counseling or mediation under sections 1402 and 1403 of this title, the employee may satisfy the requirements for counseling and mediation by exhausting the requirements prescribed by the Architect of the Capitol in accordance with section 1831(e)(3)¹ of this title. If, after exhaustion of those requirements the Office has not yet opened for the filing of a timely complaint under section 1405 of this title, the employee may elect—

(A) to file a charge with the General Accounting Office Personnel Appeals Board² pursuant to section 1831(e)(3)¹ of this title, and thereafter proceed exclusively under section 1831(e)¹ of this title, the provisions of which shall remain in effect until the

¹ See References in Text note below.

² See Change of Name note below.

completion of all proceedings in relation to the charge, or

(B) to commence a civil action under section 1408 of this title.

(c) Transition provision relating to matters other than employment under section 12209 of title 42

With respect to matters other than employment under section 12209 of title 42, the rights, protections, remedies, and procedures of section 12209 of title 42 shall remain in effect until section 1331 of this title takes effect with respect to each of the entities covered by section 12209 of title 42.

(Pub. L. 104-1, title V, § 506, Jan. 23, 1995, 109 Stat. 42.)

REFERENCES IN TEXT

For the effective dates of sections 1311, 1312, and 1331 of this title, referred to in text, see sections 1311(d), 1312(e), and 1331(h), respectively, of this title.

Rule LI of the Rules of the House of Representatives, referred to in subsec. (a)(1), (2), was repealed by H. Res. No. 5, § 23(a), One Hundred Fifth Congress, Jan. 7, 1997.

The Family and Medical Leave Act of 1993, referred to in subsec. (a)(1), is Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6. Title V of the Act was classified generally to sections 60m and 60n of this title prior to repeal, except as provided by this section, by Pub. L. 104-1, title V, § 504(b), Jan. 23, 1995, 109 Stat. 41. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29, Labor, and Tables.

The Government Employees Rights Act of 1991, referred to in subsec. (a)(1), (2), probably means the Government Employee Rights Act of 1991, which is title III of Pub. L. 102-166, Nov. 21, 1991, 105 Stat. 1088, as amended, and is classified generally to sections 2000e-16a to 2000e-16c of Title 42, The Public Health and Welfare. Sections 305 and 307 of the Act were classified to sections 1205 and 1207, respectively, of this title prior to repeal, except as provided in this section, by Pub. L. 104-1, title V, § 504(a)(2), Jan. 23, 1995, 109 Stat. 41. For complete classification of this Act to the Code, see section 2000e-16a(a) of Title 42 and Tables.

Section 1207a of this title, referred to in subsec. (a)(3), was repealed, except as provided in this section, by Pub. L. 104-1, title V, § 504(a)(5), Jan. 23, 1995, 109 Stat. 41.

Section 1831(e) of this title, referred to in subsec. (b), was repealed, except as provided in this section, by Pub. L. 104-1, title V, § 504(c)(1), Jan. 23, 1995, 109 Stat. 41.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108-271, set out as a note under section 702 of Title 31, Money and Finance.

§ 1436. Repealed. Pub. L. 106-57, title III, § 313, Sept. 29, 1999, 113 Stat. 428

Section, Pub. L. 104-1, title V, § 507, Jan. 23, 1995, 109 Stat. 43; Pub. L. 105-275, title I, § 12, Oct. 21, 1998, 112 Stat. 2436, related to use of frequent flyer miles.

§ 1437. Sense of Senate regarding adoption of simplified and streamlined acquisition procedures for Senate acquisitions

It is the sense of the Senate that the Committee on Rules and Administration of the Senate should review the rules applicable to purchases by Senate offices to determine whether they are consistent with the acquisition simplification and streamlining laws enacted in the Federal

Acquisition Streamlining Act of 1994 (Public Law 103-355).

(Pub. L. 104-1, title V, § 508, Jan. 23, 1995, 109 Stat. 44.)

REFERENCES IN TEXT

The Federal Acquisition Streamlining Act of 1994, referred to in text, is Pub. L. 103-355, Oct. 13, 1994, 108 Stat. 3243. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 251 of Title 41, Public Contracts, and Tables.

§ 1438. Severability

If any provision of this chapter or the application of such provision to any person or circumstance is held to be invalid, the remainder of this chapter and the application of the provisions of the remainder to any person or circumstance shall not be affected thereby.

(Pub. L. 104-1, title V, § 509, Jan. 23, 1995, 109 Stat. 44.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 3, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

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